IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 13TH NOVEMBER 2007 / 22ND KARTHIKA 1929

WP(C).No. 15821 of 2007(H)

PETITIONER:

J.GOPALAKRISHNA PILLAI,
PRESIDENT, PATHARAM GHADHI AND VILLAGE INDUSTRIAL
CO-OPERATIVE SOCIETY LTD. K.V.IND. Q-8,
KIDANGAYAM NORTH, PATHARAM P.O.

BY ADV. SRI.C.V.VASUDEVAN

RESPONDENTS:
---

1. THE SECRETARY, K.S.E.B. TRIVANDRUM.

2. EXECUTIVE ENGINEER, K.S.E.B.,
KARUNAGAPPALLY.

3. THE ASSISTANT ENGINEER,
ELECTRICAL SECTION, SOORANAD.

4. THE TAHSILDAR, TALUK OFFICE,
SASTHAMCOTTA.

R1 TO R3 BY SC SRI. P. P. THAJUDEEN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE JUDGMENT DASTED 14.10.2005 IN ROP 771 OF 2005

EXT.P2 TRUE COPY OF THE PETITION DATED 22.1.2004 FILED BY THE PETITIONER THROUGH THE HON'BLE MINISTER FOR ELECTRICITY.

EXT.P3 TRUE COPY OF THE ORDER DATED 6.4.2006 IN RP NO. 771 OF 2005 IN WPC 6189 OF 2004

EXT.P4 TRUE COPY OF THE ORDER DATED 28.4.2006 OF THE LAW SECTION BY LIMITING THE FIXED CHARGE TO SIX MONTHS FROM DISCONNECTION.

EXT.P5 TRUE COPY OF THE ORDER DATED 15.5.2006 STATING THAT DIRECTION TO RECOVER INTEREST FROSM THE CONSUMER WAS ISSUED BY INADVERTANT MISTAKE AND HENCE THAT PORTION IS DELETED.

EXT.P6 TRUE COPY OF THE SALE NOTICE DATED 28.4.2007

EXT.P7 TRUE COPY OF THE BILL OBTAINED UNDER THE PROVISIONS OF RIGHT TO INFORMATION ACT, 2005

RESPONDENTS' EXHIBITS: NIL.

TRUE COPY

P.S. TO. JUDGE.

C.N. RAMACHANDRAN NAIR, J.

W.P.C. NO. 15821 OF 2007

Dated this the 13th day of November, 2007

JUDGMENT

Petitioner is challenging revenue recovery proceedings for recovery of arrears of charges due to KSEB in respect of electricity connection given to a Co-op. Society. The society is defunct as of now and petitioner is it's President. The contention of the petitioner is that on account of financial difficulties, the society discontinued it's functions, and supply was disconnected in November, 2000. The amount sought to be recovered is only fixed charges demanded from the date of disconnection till date of dismantling. Counsel for the petitioner contended that under Clause 34(d) of the Conditions of Supply Board is bound to dismantle the connection within six months from the date of disconnection. If there is delay in dismantling the connection, consumer cannot be called upon to pay fixed charges beyond six months from the date of disconnection, is the contention of the petitioner. Counsel for the Ele. Board submitted that the date of disconnection is not available on record and the same requires verification. In any case demand of fixed charges beyond six months

from the date of disconnection is not permitted under the mandatory provision under clause 34(d) of the Conditions of Supply, which requires the Board to dismantle the connection within six months from the date of disconnection. In the circumstances, W.P. is allowed directing the third respondent to verify the date of disconnection, limit the demand of fixed charges for six months from the date of disconnection and withdraw the demand for the balance amount, if any, charged. Third respondent will forward a statement of actual liability as above to the fourth respondent to proceed for recovery if petitioner does not make payment within one month from the date of receipt of intimation. Petitioner will produce a copy of this judgment before the third respondent for forwarding a statement to the petitioner for settling the liability by the petitioner. If liability is settled, third respondent will withdraw the revenue recovery proceedings from the fourth respondent. There will be direction to the fourth respondent not to recover any collection charges if payments are made by the petitioner as above. The amount so far paid by the petitioner will be adjusted towards revised dues and excess if any paid by the petitioner will be refunded to the petitioner without any delay.

(C.N. RAMACHANDRAN NAIR)
Judge